

Judge: Timothy W. Dore
Chapter: 13
Hearing Date: July 10, 2019
Hearing Time: 9:30 am
Hearing Location: U.S. Bankruptcy Court
700 Stewart St #8106
Seattle, WA 98101

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In Re:

CASEY LYNN PIRIE,

Debtor.

IN CHAPTER 13 PROCEEDING
NO. 19-11580

TRUSTEE'S OBJECTION TO CONFIRMATION

The Trustee objects to confirmation of the debtor's plan, filed April 29, 2019 (ECF No. 2) as follows:

The debtor filed this case April 29, 2019 (ECF No. 1). (1) The debtor listed a Chase Bank account valued at \$500 on Schedule A/B (ECF No. 1). She claimed the maximum allowed exemption of \$500 for a bank account under RCW 6.15.010(d)(ii) on Schedule C (ECF No. 1). Based on the statement the debtor provided to the Trustee, it appears the actual value of the Chase Bank account on the petition date was \$1,819.08. The debtor should amend Schedule A/B to disclose the actual bank account balance as of the date of filing. (2) The plan provides in Section IX that the liquidation value of the estate is \$0. However, based on the actual balance in the Chase Bank account on the petition date, the liquidation value of the estate is \$1,134.40. The debtor should amend her plan to provide at least this figure in Section IX, as she must account for all unexempt equity in this section. 11 U.S.C. § 1325(a)(4). (3) The plan provides that the debtor is surrendering her interest in a 2018 Nissan Frontier to Nissan Motor Acceptance and her interest in a 2012 Rpod to Harborstone Credit Union. The debtor testified at the 341 meeting of creditors that her partner is the primary borrower on both of the associated loans, and that the debtor co-signed the loans. Harborstone Credit Union has not yet filed a proof of claim, but the claim filed by Nissan Motor Acceptance lists the debtor as the co-borrower and one of the owners of the 2018 Nissan Frontier (ECF Claim No. 2). The debtor further testified at the 341 meeting of creditors that she does not intend to physically surrender the

TRUSTEE'S OBJECTION TO CONFIRMATION - 1

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vehicle and trailer to these creditors, and that she and her partner intend that direct payments will continue to be made to those lenders. The debtor needs to amend the plan to pay the 2018 Nissan Frontier and the 2012 Rpod through the plan and increase the plan payment as necessary for feasibility; the Trustee shall make the vehicle and trailer payments from the debtor's plan payments. Local Bankr. R. 3015-1(j). "Bankruptcy courts may require that payments be made through the plan based on specific factors or reasons such as administrative efficiency, tracking of payments, fairness and treatment of creditors, and the determination that there is a reduction of plan failure when all payments are made through the plan." *Giesbrecht v. Fitzgerald (In re Giesbrecht)*, 429 B.R. 682, 690 (B.A.P. 9th Cir. 2010) (citations omitted). Subsequent to the Bankruptcy Appellate Panel's *Giesbrecht* decision, the Bankruptcy Court of this District implemented a local rule making the default position that the Trustee will make all payments to creditors with some exceptions not relevant here. Local Bankr. R. 3015-1(j). Unless there is some justified exception, all payments must be made by the Trustee except domestic support obligations made by an assignment from debtors' wages, leases of real and personal property and deeds of trust/mortgages that are current as of the petition date. The reasons for this local rule are many. A debtor's plan "shall provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan." 11 U.S.C. § 1322(a)(1). The Trustee's duties include monitoring a debtor's performance under the plan. U.S.C. §§ 1302(b)(1), 1307(c). Payment of claims by the Trustee is necessary for many reasons, including administrative efficiency, monitoring of payments, fairness and treatment of creditors, reduction of plan failure and provision of an independent accounting in the event of a dispute between the debtor and a creditor. *In re Genereux*, 137 B.R. 411 (Bankr. W.D. Wa. 1992) (enumerating various factors). (4) The Trustee reserves the right to assert additional bases for this Objection.

THE TRUSTEE REQUESTS:

That the Court enter an order denying confirmation of the debtor's plan, and setting deadlines for filing and noting a feasible amended plan.

Dated: July 02, 2019

/s/ Jason Wilson-Aguilar

Jason Wilson-Aguilar, WSBA #33582

Chapter 13 Trustee

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